EXHIBIT C

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
CAUSE NO. 05-CF-1217 (JS) (MLO)

S & L VITAMINS, INC.,
Plaintiff,

vs.

AUSTRALIAN GOLD, INC.,
Defendant.

AUSTRALIAN GOLD, INC.,
Third Party Plaintiff,

vs.

LARRY SAGARIN and JOHN DOES 1-10,

Third Party Defendants.

COPY

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The deposition upon oral examination' of LESLIE HARTLIEB 30 (b)(6), a witness produced and sworn before me, Deanne S. Hutson, Notary Public, in and for the County of Marion, State of Indiana; taken on the 16th day of March 16, 2006, at the offices of Ice Miller, One Indiana Square, Suite 3400, Indianapolis, Marion County, Indiana; taken pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure. This deposition was taken on behalf of the Plaintiff S & L Vitamins and the Third Party Defendant, Larry Sagarin, in the above-captioned matter.
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Beauty Distributorship
Agreement Non-Exclusive-
Domestic-Multi Year
Between ETS, Inc. and Silier Tech,
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(The Court Reporter marked a document

Exhibit 1. Have you seen this before?
A. Yes.
Q. Now, you'll see on page 2 that there are five topics, and if for any reason you need to slow down -- you need me to slow down, I'm sure you'll tell me. But am I to understand that you are being presented by Australian Gold, Inc., to testify on all five of these topics?
A. Yes.
Q. Okay. Have you ever been deposed before in a -- in a lawsuit?
A. Yes, one time.
Q. When -- when was that?
A. Approximately three years ago.
Q. In connection with?
A. A patent infringement.
MR. COLEMAN: Now, let me actually just clarify. Very important. Going forward throughout the deposition, I'm going to refer to Australian Gold, and my understanding of the question would be that refers to Australian Gold and ETS unless the context makes it clear that we're trying to understand the -- the corporate ownership

issues. In other words, I -- from -- from -- from what I understand, ETS and Australian Gold have stood in each other's shoes. For example, you -- you'll -- Mr. Matthews, you'll recall that the first cease and desist letter was written on behalf --
THE COURT REPORTER: I -- I'm sorry. The first --
MR. COLEMAN: The first cease and desist letter, you'll hear that a few times during the course of this.
THE COURT REPORTER: Okay.
MR. COLEMAN: -- was sent on behalf of ETS and subsequent letters came out on behalf of Australian Gold. I just want it to be understood that we're talking about Australian Gold in general, the -- the -- the owner of the -- of the brands that are the topic of this lawsuit.
MR. MATTHEWS: I think that's fair as long as we limit it to -- to the lotion side of the business, because ETS also was in the bed -- tanning bed business, and your question should become immensely broader than the scope of the deposition. So if we're

talking about Australian Gold and ETS with respect to the lotions --
MR. COLEMAN: We -- something. And thank you very much, and that's absolutely exactly the way I understand it. Also, when I talk about Australian Gold products, I will also be including Swedish Beauty and Caribbean Gold products.
Q. Was Australian Gold the plaintiff or the defendant in that patent infringement case?
A. The defendant.
Q. Was that ultimately resolved?
A. We settled.
Q. Is there any confidentiality order restricting what you can discuss about that case?
A. That I don't recall off the top of my head.
Q. What court was that in? Was that here in the District of Indiana? I'm assuming it was in federal court.
A. It was federal court, uh-huh, and it was here, so.
Q. Okay. So because you're relatively

inexperienced, God bless you, I'm going to say just a few basic rules of the road and which I'm sure again that you've heard before from Mr. Matthews. I'll be asking questions. As you know, you're on the record, you're under oath. It is important that your answers be verbal and that you let me finish the question completely which will both give you the opportunity to make sure you're answering the question as well as give your attorney the opportunity to make any objection.

Are you under -- are you using any kind of medication that would impair your ability to answer these questions in ter -- things that are affecting your memory or cause you to -- to have blackouts or anything interesting like that?

A. No.
Q. God bless you. What is your position in Australian Gold, Inc.?
A. I'm currently the president and CEO of Australian Gold.
Q. How long have you been the president and CEO of Australian Gold?

A. Since 2004.
Q. What was your position before 2004?
A. Vice president of marketing for ETS.
Q. How long were you in that position?
A. 1997, seven years.
Q. When did you first start working for Australian Gold?
A. 1988.
Q. All right. So let's -- let's take it back -- back up a little bit so I can get a sense of your CV ever so briefly.
Starting with high school, when did you graduate high school?
A. '83.
Q. And you attended college?
A. And pardon me?
Q. Did you attend college?
A. Yes.
Q. And you graduated when?
A. 1987.
Q. From?
A. Illinois State.
Q. Illinois State. What was your major?
A. Business administration and marketing.
Q. Did you take any courses relating

to --
MR. COLEMAN: Withdrawn.
Q. Did you get -- did you get an MBA?
A. No.
Q. You graduated in '88 and came to work immediately for Australian Gold?
A. I graduated in '87.
Q. Oh, I'm sorry.
A. And I did small jobs prior to coming to work in '88 -- February of '88.
Q. And what was your first job in '80 -- in '88?
A. It was a sales associate position.
Q. How long were you -- the -- and is that with -- were you -- were you a sales representative?
A. Basically, I supported the sale -- the sales rep for equipment, and then from there, I moved into a lotion sales representative position.
Q. At that time was Australian Gold -- let me be specific. Was Australian Gold, Inc. the actual -- your actual employer then?
A. No. ETS.
Q. ETS. And at that time both the

hardware and the software, we might call them both the beds, and related equipment and the lotions were sold by ETS?
A. For indoor tanning.
Q. Indoor tanning is the name of an aligned company?
A. No, Australian Gold was created in 1988 for outdoor sales -- or I think it was a --
Q. Outdoor tanning sales.
A. Outdoor tanning sales.
Q. Is that --
A. It may have been '89. I don't know the exact year, but the outdoor division was Australian Gold. The indoor division sold through ETS. ETS was the exclusive distribution.
Q. Now is the line between outdoor tanning products -- only talk -- are we only talking about products, or are there services that are provided by Australian Gold?
A. What do you mean by "services"?
Q. Is there any consulting that that Australian Gold does in the tanning -- tanning industry?

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A. Do training, education, basic business.
Q. Does it charge for training and education, or is that part of its support?
A. Part of its service to our customers.
Q. Service to your customers. Would it beåòair to characterize that as support for the sales function?
A. Some is done before sales, some after, so.
Q. Now, is there a bright line between outdoor tanning products and indoor tanning products at Australian Gold, or was there when you first started? And when -- when Australian Gold had an outdoor tanning division and an indoor tanning -- tanning division, were -- was there ever -- was -- are there any products that are -- that are sold by both?
A. We do have the ability to sell some of the SPF products to salons so that they can offer a service to their customers, because generally people if they're coming to the salon to tan, they're looking at them as the experts, and so if they're going before

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a vacation, they may want to buy SPFs from the same product line that they're using in order to take it on vacation to protect their skin and outdoor --
Q. Okay. We may be getting ahead of my ouline, but since you've raised it, when you say "SPF," what is it you mean?
A. Sun Protection Factor Products.
Q. Sun Pro -- that -- that means -- does that mean tanning lotions that have SPF?
A. Yes.
Q. There are tanning products that do not have SPF; is that correct?
A. Yes.
Q. And are those exclusively indoor tanning products?
A. We have a line of outdoor products that don't contain sunscreens that are for sale. They're sold in Florida for people, you know, just like they use baby oil. It's an option for them.
Q. There are people who tan in baby oil?
A. There's people that tan in Crisco, so, yes.
Q. I'm remembering the 60s people doing

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that. Remember those -- those tin foil things.
A. I've heard motor oil. I've never seen it, so.
Q. So there are -- so there are nonindoor SPFs that would be sold only by the outdoor tanning --
A. Uh-huh.
Q. -- at this point would be -- it would be Australian Gold.
A. Uh-huh.
Q. And there are -- there are outdoor tanning products that are from time to time sold through ETS as a service to salon customers.
A. Yes.
Q. Does Australian Gold recommend the use of non-SPF tanning lotions outdoors?
A. No.
Q. Why not?
A. Because in a tanning salon we're able to recommend tanning equipment that is for their skin type. The timers are regulated to provide the maximum amount of tanning exposure for their skin type. Outdoor, it

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can range anywhere from -- depending where you are, I mean, at -- at the equator to Minnesota. I mean, there's no controlling it. You don't know what you're getting. If it's a cloudy day, you're still getting UV rays and you don't -- don't realize what you're getting.
Q. Is it the case that the purpose of the SPFs is to protect from UV rays?
A. Yes.
Q. Ultraviolet rays?
A. (Nodding.)
Q. Are ultraviolet rays not an issue for indoor tanning?
A. Indoor tanning is ultraviolet rays. They're just regulated, controlled.
Q. Okay. So if I understand properly, is -- are you saying that because there's such a fine degree of control regarding the amount of exposure and the period of exposure and the analysis of skin type in a salon environment that it is not necessary -- or -- or that that SP -- that SPF lotions are not used in -- for indoor tanning?
A. They may be used but

Q. To some extent, I -- is it the case that customers would resist using them, because they're --
A. They're coming to the salon to get a tan to feel better about themselves.
Q. And the -- and the distinction --
A. And SPFs would prevent that.
Q. Or -- or would -- understood. Okay.
A. But there are some people -- like there are many women that put SPFs on their face and tan the rest of their body.
Q. Are you aware whether the Food and Drug Administration has anything to say about the use of non-SPF tanning lotions for -- for outdoor use?
A. I'm not aware that they have anything for outdoor use. Other -- I mean, there are basic labeling, same in -- same that they would have for indoor use.
Q. How --
A. FDA controls all of our labeling.
Q. Do you submit label text to the FDA prior to utilizing it?
A. No.
Q. They just have regulatory over what's on the labels?
A. Yes.
Q. Has the FDA ever asked you or required -- when I say "you," I mean Australian Gold. I'm sure they have no personal issues with you. Has they -- have they ever asked Australian Gold to make a change to labeling?
A. Yes.
Q. Can you remember what happened -- what -- what the facts were in that case?
A. The -- the indoor tanning products contain different types of oils, nutrients, amino acids, different things. The FDA determined that tyrosine, which is an amino acid.
Q. Do you want to spell that for the reporter and for the lawyers?
A. T-Y-R-O-S-I-N-E. T-Y-R-O-S-I-N-E.
Q. Tyrosine.
A. Is an amino acid that stimulates melanin, which is responsible for giving you the color of the tan on your skin. And if you put on the label, it was an accelerator and had tyrosine in the product, they

determined that that was now a drug and changed the structure of the skin. So you either had to take accelerator off the label or take tyrosine out of the product.
Q. Are you saying that your understanding of what the FDA was saying was you can keep the product the same, if you like; if you advertise it differently, we won't regulate it as a drug?
A. (Nodding.)
Q. That was a "yes," correct?
A. Yes, yes. If you say that it accelerates the tanning process, it's a drug. If you --
Q. Are any Australian Gold products regulated as drugs?
A. SPFs are over-the-counter drugs, yes.
Q. SPFs. So how does that change the way they're sold, or does it?
A. I don't believe it changes how they're sold.
Q. What does it mean to Australian Gold then for a product to be regulated by the FDA as opposed to not -- as a drug as opposed to
A. As a drug?
Q. -- not being regulated as a drug?
A. Our over-the-counter SPF products, they have specific good manufacturing processes that have to be met. We have to do testing. We have to have stability testing. We have to have in vitro testing as far as verifying that the SPFs are what they pro -- on the product label. We have to meet all the CTFA labeling guidelines and we have to keep samples at the manufacturing facility.
Q. Does the FDA have any regulations that you're aware of in your role as president and chief executive officer of Australian Gold that mandates or guides Australian Gold as to how or to whom the SPF products are sold?
A. I don't understand.
Q. Does the S -- does -- does the fact that the FDA -- you -- you just described for me a few differences between a nondrug product and a drug product. I believe your testimony was that SPFs are regulated as over-the-counter drugs by the Food and Drug

Administration.
Does any of that regulation -- you -- and you -- you then mentioned a few things that are different between the nondrug and the drugs. In addition to what you've listed, does the FDA have any regulatory requirements regarding how or to whom the SPFs are sold?
MR. MATTHEWS: I'm going to object to the form of the question to the extent it calls for a legal conclusion.
You can answer the question based upon your understanding.
Q. On your operational understanding.
A. I believe that the FDA governs the product. I don't believe that they create marketing channels or anything as far as that's concerned, with the exception of actual drugs where you have to have a license to distribute. I've not read anything otherwise contrary to that.
Q. Do you know whether over-the-counter drug products are restricted as to the age to which -- the age of the user?
MR. MATTHEWS: I'll just show a

standing objection to the -- the line of questioning to the extent FDA regulations and rules and requirements call for a legal conclusion. That way I won't interrupt your question.
MR. COLEMAN: Sure. I appreciate that, and I -- I'll -- and I'll stipulate that we're absolutely not making any -- we -- receiving legal answers.
Q. But rather, based on your operational understanding and your executive duties, has -- has the issue -- let me ask a much broader question.
Is there any restriction on, even internally at Australian Gold, as to the age of persons who may buy any Australian Gold product?
A. The FDA monograph -- and it's not buy, but the FDA monographs requires us to put on SPF products that children under six months should not use it. It's not a buy. The FDA doesn't market -- I mean, it's not a marketing channel regulation, so it's labeling, ingredients, that type.
Q. Do you -- do you have any

understanding when you -- you've said a couple times that the FDA is not interested in marketing channels. Do you have any understanding as to --
MR. COLEMAN: Withdrawn.
Q. Now, I'm going to go back and ask you a little bit more about Australian Gold as a company. Do you -- do you know when the company was founded?
A. ETS? The original company was founded in 1984.
Q. 1984. And do you know who the people were who started the company?
A. Trevor and Edna Gray.
THE COURT REPORTER: Trevor Gray and --
THE WITNESS: Edna Gray.
Q. Are those two people --
A. Yes.
Q. -- Trevor Gray and Edna Gray --
A. Yes.
Q. -- husband and wife?
A. Yes.
Q. Are they still involved in the company?

A. They are on the holding board. They're not involved in the day-to-day activities.
Q. Did you have any expertise or even acquaintance with the field of tanning at all before you took that first job as a sales associate?
A. Other than having tanned before, no.
Q. What -- what is ATS?
A. ATS is another subsidiary that was set up originally for -- I believe a venture Trevor was doing with RCA, a local electronics company. It was a telemarket -- it was a marketing firm. At one time then we -- after that was finished, didn't -- didn't work out, ATS purchased Swedish Beauty from Fokey Johanson. It was set up as a separate company at that point in time.
Q. Was Carribean Gold also a privately owned line that was purchased, or was that developed internally?
A. Developed internally.
Q. When -- when did that take place?
A. I'm estimating -- I don't know the exact date. I would estimate about 1990.

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Q. Are these -- are -- are Australian Gold, Swedish Beauty and Caribbean Gold the same products in different bottles?
A. No.
Q. What is the distinction among the three lines?
A. They -- there are several distinctions. Now Swedish Beauty was our high-end product line originally. It has different focuses on skin care products. Like one of the ingredients that's signature to that line would be white tea tree oil that we don't cross between the other lines.
Another for -- Australian Gold started more as a sporty line. It -- it's now getting into the more high-end ingredients, but we focus more on the co -- coQ10 antioxidants, different things like that.
Carribean Gold is more of our entry level line. It's geared for younger tanners. It's fun. It doesn't have the high-end ingredients. It's more low cost for -- for people that don't have professional incomes. So you could have -- maybe you could have a

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product that was a bronzer in each line, but the level of bronzers, the quality of bronzers are not the same.
Q. When you refer to "quality," does that mean -- you -- you made a reference to the kind of ingredients in terms of what it does for your skin overall besides protecting --
A. Uh-huh.
Q. -- besides the tanning aspect of it. Would -- would it also be addition to the tanning qualities?
A. Both.
Q. Both. It's -- is it fair to say your description of Caribbean Gold is that it's cheaper?
A. It's less expensive.
Q. Less expensive. And uses less expensive ingredients.
A. Cheap.
Q. Do your -- you have -- you have a network of distributors; isn't that correct?
A. Yes.
Q. -- a lot of talk about that --
A. Indoor. Yes.

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Q. Do your distributors sell all three kinds typically -- all three lines rather?
A. Typically. There are some that don't have all the lines.
Q. And let's talk a little bit about the distributors. While I'm looking for my document, I'll just also tell you what I should have told you at the beginning, which is if for any reason you want to take a break, need to take a break, then you just have to ask, and we'll take a break.
(At this time a discussion was held off the record.)
MR. COLEMAN: Okay. We're going to go back on.
Q. How does Australian Gold get its products out to the wide world?
A. How?
Q. Can I drive up to the Australian Gold tower in Indianapolis and go in and buy some tanning lotion?
A. No.
Q. How does it happen? One look at me tells you that I probably don't buy a lot of tanning lotion, but let's just say I decided

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after that litigation that I was inspired and I wanted to get my hands on some good authentic Australian Gold. How would I go about getting that?
A. Through a tanning salon.
Q. How does it get to the tanning salon?
A. Through our distributor network.
Q. How many of these distributors are there?
A. Currently, 43 direct distributors and about 70 subdistributors of the distributor. A distributor may have a sub.
Q. Now a subdistributor, can you explain to me how that works? Do -- do they have a direct contractual relationship with Australian Gold?
A. Yes.
Q. Are the subdistributors chosen by Australian Gold?
A. Yes.
Q. Why would a distributor utilize a subdistributor?
A. They may have an office in a location that allows them to ship quicker to a salon.
Q. So what is the -- I'm assuming facts

not in evidence. How do -- what the -- what does the distributor do?
A. He works with the salon, provides education, training, finds out what type of products they want to sell, what market they're in, how best to get their -- you know, increase their sales. He works with providing the products to them when they need it.
Q. Okay. That's on the --
A. Do --
Q. -- the -- on the salon end?
A. Right.
Q. How does the distributor -- what is the range of interactions between the distributor and Australian Gold?
A. In --
Q. I'll give you a sense -- I don't want to testify for you, but I -- I'm looking for they -- we sell them our stuff, we ship it there, it stays in our warehouse or -- or, you know, how does it work?
How does the stuff get from -- where -- where is this -- where is Australian Gold -- where are Australian Gold products

manufactured, first of all?
A. At V Pack in Chicago.
THE COURT REPORTER: I'm sorry. Say that again.
THE WITNESS: V Pack.
Q. What is V Pack?
A. Our contract manufacturer.
Q. This one manufacturer in Chicago manufactures all the lines?
A. Currently, yes.
Q. Have there been times when there have been other manufacturers?
A. Yes.
Q. How recently ago was that?
A. Three years ago we had a local.
Q. In Indianapolis?
A. Uh-huh.
Q. Okay. Indianapolis. Why the change?
A. The -- the -- think of the right word. The owner passed away. This -- people he had under him could not support our needs, so.
Q. Has it always been the case there has been -- that there has been a single manufacturer for all your products at a time?

A. I believe so.
Q. Are those the only two manufacturers, the one in Indianapolis and then V Pack, that you're familiar with?
A. That manu -- actually manufacture the product, yes.
Q. Does Australian Gold provide them with formulas and specifications?
A. Yes.
Q. What kind of -- in a general sense, what kind of quality maintenance is there to ensure that specifications are met?
A. We do random checks with the products. We keep stability test on file from them.
Q. How many people work for Australian Gold?
A. Eighty-eight.
Q. Are they all here in Indianapolis?
A. No.
Q. Where else are they?
A. We have an office in Florida.
Q. How many people are in Florida?
A. I believe nine.
Q. What happens in Florida that doesn't

happen here, besides the sun shining?
A. They support the SPF line, the outdoor line, that's just sold in Florida and some beach areas.
Q. So there are approximately 80 people in Indianapolis?
A. Yes.
Q. Are the people who monitor the manufacturing quality members of your full-time staff?
A. Yes.
Q. Are there chemists on your staff?
A. We have a contract chemist that's not on our staff.
Q. But is it the case that you use that person on a consultant basis?
A. Yes.
Q. Does that person help with formulations?
A. Yes.
Q. Who on your staff has key res -- who is the main person who has responsibility for safety issues?
A. Safety issues?
Q. Relating to the use of Australian

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Gold products.
A. Ultimately me.
Q. Understood. Is there a person to whom you designate that portfolio, however, on a regular basis?
A. Different lines from a label standpoint would have different creative people working on them that I sign off on.
Q. Okay. Does Australian Gold employ anyone on a full-time basis out of the 88 who has responsibility only for safety?
A. No.
Q. Is it the case that each distributor of Australian Gold enters into a written contract with Australian Gold?
A. Yes.
Q. Are they all the same, the contracts?
A. I believe so with the exception of the dates and --
Q. Of course. Are there -- have there been in -- and you -- since you've been -- let me take a step back. Before you became president -- I'll just say "president" so we don't have try to give your title every time I describe your job.

Since you've been president, has there a -- have there been changes in the terms of the distribution agreements that are used?
A. Yes.
Q. Do you know what kind of changes those have been?
A. Yes.
Q. Can you tell me which -- which ones you might remember?
A. I don't -- I don't know what line it is or -- but there's a transfer of ownership. The --
Q. Of the distributorship?
A. Uh-huh.
Q. This new clause permits it or forbids it or regulates it or which?
A. We -- we must approve it or they no longer can be the distributor.
Q. Do these contracts have terms in them that control to whom distributors may sell Australian Gold products?
A. I believe you have a copy of it, but there are sections on the resale.
Q. And it's your testimony that these

sections that govern resale apply to all the contracts with the distributors; is that correct? In other words, there is -- there are no distributors who have contracts --
A. There's no other contract that says otherwise.
Q. Do you know whether those terms have changed during the time that you have been aware of the distributorship contracts?
A. No, not that I'm aware of.
Q. Can you buy Australian Gold on the Internet, Australian Gold products?
A. What do you mean "can you"?
Q. Can -- what if I don't want to go to a tanning salon, if I just want it in the comfort of my home, order some on the Internet. Can I buy some?
A. We don't authorize it.
Q. Is it possible to buy from an unauthorized source on the Internet?
A. Possible.
Q. Well, it is --
A. I mean --
Q. It is a yes or no question. So if you say no, we can all go home.

MR. MATTHEWS: I think your clients have to answer that question. Then we can go home.
MR. COLEMAN: My clients -- my -- that's one of the first allegations in the complaint is that we sell it.
Q. In fact, it's true that some people sell Australian Gold on the Internet, isn't it?
A. Yes.
Q. Are distributors prohibited in their agreements from selling to persons who are selling Australian Gold products on the Internet?
MR. MATTHEWS: I'm going to object to the form of the que -- question, because the document -- the -- the contract speaks for itself.
To the extent, you have a memory as to what the contract says, you can answer the question the best you can. Otherwise you can look at the agreement.
MR. COLEMAN: And your -- your objection is noted.
Q. You can answer the question. Are you

allowed under the distribution -- or is a distributor allowed -- let me rephrase it, though, because it was awfully structured before.

Under the distributorship -- under the distribution contracts -- by the way, do you review the contracts before they're signed with individual distributors?

A. Each contract -- each individual --

Q. Yeah.

A. Have I reviewed the contracts? Yes. I don't review each contract.

Q. When -- when distributors are chosen or replaced, does -- does that rise to your level of involvement in the company?

A. Yes.

Q. Every time?

A. Yes.

Q. Has a distributor ever been terminated by -- because of a violation of the terms of the distribution contract?

A. Yes.

Q. What sort of violation was -- was that?

A. We've had conflict of interest

issues. We've had --

Q. Before --

A. -- selling outside of what we expect -- where we expect the products to be sold to.

Q. Does that mean that they were selling to -- the distributors should -- distributors who were terminated were selling to Internet retailers?

A. Or other unauthorized locations.

Q. What are other unauthorized locations?

MR. MATTHEWS: Again, I just -- a standing objection to the extent --

THE WITNESS: Yeah.

MR. MATTHEWS: -- this is all contract interpretation and the contract sets forth who -- to whom the product can be sold. And you're -- you're asking her to test her memory. You're trying to paraphrase the -- the contract.

You can answer it to the best of you ability, but if there's a contract that he has if it will help you, you can ask for it.

A. Yeah. If you -- do you have it with you?

Q. It's being copied.

A. Yeah.

Q. But -- but actually because you have the responsibility for in -- in your -- in your job function for enforcing it, I'm just asking your understanding of how it works and -- and some of the history. At one point I promise I'll put it in front of you. If for any reason you see something in there that makes you realize that you slightly misspoke or you didn't put as fine a point on it -- again, as Mr. Matthews said, you're not a lawyer. A lot of that stuff in there is lawyerese. That's all understood. This is not -- but, again, I do want to get a sense of -- of the business issues.

So you have terminated distributors for unauthorized sales in terms of whom they sell to; that's correct?

A. Yes.

Q. Do you know how many times that's happened?

A. Two or three.

Q. Can you remember the names of those distributors?

A. Not all of them. I know one in particular.

Q. What was the name of that distributor?

A. AETS.

THE COURT REPORTER: I'm sorry. Say that again.

THE WITNESS: AETS.

Q. What was their territory?

A. They don't -- we don't have territory. United States territory.

Q. Oh, so maybe I misunderstand. How are the distributorships organized if not by geographical territory? Just business needs sort of thing, because -- here's someone who can sell a lot of products.

A. Right. Well, there -- they are -- the distributors have to meet qualifications.

Q. What are --

A. We don't limit --

Q. Oh.

A. -- where they sell the products other than they have to sell them in the United States.

Q. What are those qualifications?

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A. Again, it's in the contract there. Some of the items are they have to have a catalog. They have to be abl -- it's to be resold into a salon environment where they have tanning as the majority of their business. They have to have an 800 number. They have to work with us on training of both their staff and the salons that they sell to. There's a list of items there.
Q. Okay. So you're talking to me about contractual requirements. Are there other qualifications that are not in the contract that a company has to meet before you'll even give them a contract?
In other words, if I call up and I say, look, I've never been in this business before, but I heard I can make some money off it and I think I -- I think I know how I can sell the stuff. Give me your contract. I want to -- I want to be a distributor, would you require anything else from me in terms of a -- the demonstration of capitalization or a letter of credit? Any other kinds of prequalifying sort of criteria?

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A. That's a good question, because in the last five years, we've not added anyone new to -- outside of the business, so we -- we -- I don't -- I don't really -- I don't think that I have an --
Q. Okay.
A. -- outline for new business.
Q. Is it the case then that two distributors could be operating in next door locations and competing with each other as distributors?
A. It's possible.
Q. To your knowledge, is there any situation where there are distributors that are located within a couple of miles of each other geographically?
A. Yes.
Q. Would those be in the more saturated markets?
A. No.
Q. Oh, it sounds like -- it sounds like I hit a good one there. However, it's not really germane to our case.
Do you remember -- and so -- so the -- this AET -- was it AETS?

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A. Yes.
Q. Funny how much it sounds like a combination of your --
A. Funny.
Q. -- two businesses --
An AETS, when -- when were they terminated?
A. I believe between 2002 and 2004, one of -- in that time period.
Q. Were they implicated in the Hatfield litigation?
A. I believe so.
MR. MATTHEWS: For the record, they were convicted.
THE WITNESS: AETS was?
MR. COLEMAN: Convicted for what?
MR. MATTHEWS: Just giving you a hard time, Ron.
MR. COLEMAN: Off the record for a second, please.
(At this time a discussion was held off the record.)
Q. Now, these subdistributors that you refer to, are they subject to the same contractual restrictions in terms of whom

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they can sell to?
A. Yes.
Q. Have you added -- has Australian Gold added any subdistributors since the time that you have been aware of it?
A. I would have to look at the list. I couldn't --
Q. You don't have an -- a clear recollection of, then. I actually meant to get a better understanding of this. Where -- do distributors maintain a physical stock of product? Is that one of their --
A. Yes.
Q. -- roles? Do distributors vary widely in how often they order product or does each dist -- di -- distributor typically order three or four times a year -- is there a wide range?
A. Distributors have different business models.
Q. Different business models. So in situations where you have a subdistributor, do the distributors mostly function as -- let me re -- let me rephrase it.
Why wouldn't you just have

subdistributors become distributors of Australian -- Australian Gold and eliminate one layer of pricing, one layer of complication?
A. There are several different reasons, one of which would be whether they were financially stable enough for us to give them credit would be a major issue.
Q. Do you extend credit to all your distributors?
A. Yes.
Q. Is it typically 30 days, 60 days, or is it more than that?
A. Generally 30 days. We have promo -- different promotions.
Q. To your knowledge, do all the subdistributors have the same contracts as well, same contracts -- same subdistributor contract? And there is -- they all are subject to the same requirements?
A. Yes, same ones.
Q. Does Australian Gold have any contracts with tanning salons directly?
A. Yes.
Q. What kind of contracts are those?

A. We have a chain contract -- a contract with a few of the chains. Basi --
Q. Chains of tanning salons?
A. Uh-huh.
Q. I'm sorry. What were you going to say?
A. The same basic parts as a distributor contract, only it's to -- for a chain of salons.
MR. COLEMAN: Have we, Mr. Matthews, to your knowledge, been given any of those contracts in discovery?
MR. MATTHEWS: We'll check.
MR. COLEMAN: Thank you. And we'll check too. That -- that may be something that we didn't count on at all.
Q. What -- what are those chains?
A. Planet Beach, Palm Beach.
Q. Are these all --
A. I'm just remembering, so I may miss one or two.
Q. Did you say Palm Beach?
A. Palm Beach, Hollywood Tans.
Q. Are these all in one geographical part of the country, or are they spread

throughout the country, the chains?
A. They could be spread throughout. Depends on --
Q. Well, I --
A. -- like Palm Beach has salons in Texas, Minnesota, Washington, DC, so.
Q. Okay. So in the case of these tanning salons, these chain contracts, is it the case that there was no distributor involved at all?
A. Right.
Q. They act as their own distributor, basically?
A. Right.
Q. Do they get a better price that way?
A. Better price than the distributor?
Q. No. Better price than other tanning -- than -- than tanning salons that themselves have to buy through a distributor.
A. They would get the price that their level of purchases meets.
Q. So are the contracts with these chains the -- rather, do the contracts with these chains also contain these restrictions on whom they may sell to?

A. Absolutely the same clauses in both.
Q. Now, if I walked into a Planet Beach Tanning Salon and saw some Australian Gold products on the shelf, do -- was it your understanding that Planet Beach would be required to make an inquiry as to what I intended to do with it if I -- if I wanted to buy a whole box full?
A. Yes.
Q. What is the -- and, again, I'm not asking you to interpret the contract, but based on your understanding of how the business is supposed to operate and how these agreements work, how much product does a person have to purchase from a tanning salon that is subject to this contract before they make that inquiry?
A. Can we wait until we get the contract and I can show you?
Q. Okay. You want to -- okay.
A. Right. It --
Q. But what -- what happens is we don't seem to have -- I don't believe we have the chain contracts. But --
A. It's

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Q. -- we'll -- maybe we'll come back to that.
Do -- does Australian Gold require its distributors to enter into contracts -- let's put the chains aside now. In terms of the regular distributors, are they required by Australian Gold to enter into contracts with the salons that govern whom the salons sell to?
MR. MATTHEWS: I'm sorry. Could you -- could you restate that? I lost you there.
MR. COLEMAN: Sure.
Q. Does Australian Gold require its distributors to enter into contracts with salons that govern how or to whom the salons sell Australian Gold products?
A. We don't require contracts.
Q. Are you aware of any contracts such as the one I just described that do that?
A. In tanning?
Q. Yes.
A. I'm not aware of a contract.
Q. You're not -- so does Australian Gold have any idea what people do with tanning

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lotion once they buy it from the salon?
A. We know what the product is designed to do.
Q. I'm going to ask you to see if you can actually answer the question that I asked, which is slightly different than the one you answered.
Do you want me to have it read back?
A. Yes
MR. COLEMAN: Can you please read back the last question?
(The Court Reporter read back the last preceding question, as set forth herein above.)
A. It's our assumption that they take it into the room, put it on their body, get into a tanning bed.
Q. Is it your assumption that they don't use it at home?
A. They would use moisturizers at home.
Q. What if they have a tanning bed at home?
A. They would use the product before getting into the bed.
Q. Does Australian Gold sell its

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products to individuals if they have a tanning bed themselves?
A. If they order the beds through ETS, yes.
Q. If they order the beds through ETS, then how would you go about determining that they had a -- an ET -- ETS bed once they -- once they put in their orders?
A. There are several questions that someone may ask them as far as the serial number, lamps in the bed.
Q. Once they buy that bed, is there any ongoing monitoring to -- to see if they still own the bed?
A. Not physically, no.
Q. Is it by something other than a physical method?
A. We would ask for the serial number on the bed or -- I mean, we don't go into the homes and make sure it's still there.
Q. So they could be giving you a serial number for a bed that they bought and then sold on eBay the next day, right?
A. Yes.
Q. Is that also true regarding -- I'll

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rephrase. Does Australian Gold do any monitoring to confirm that salon purchasers are still -- are still operating as salons with tanning beds in them?
A. We do store checks.
Q. When you say "we," do you mean the distributor or do you mean Australian Gold?
A. Could be both.
Q. Does Australian Gold do them itself?
A. That's we've got -- we go out to salons periodically.
Q. Who goes out to salons? What -- who are the staff members who do that?
A. I've been out to salons. Our sales staff does in-salon training. Our marketing people do product testing.
MR. COLEMAN: Off for a second. Meanwhile, you can mark this as Exhibit 2, please.
(The Court Reporter marked a document for identification as Exhibit No. 2.)
Q. Do you recognize what has been marked as Exhibit 2?
A. Yes.
Q. Can you des

MR. MATTHEWS: And --
MR. COLEMAN: Oh, I'm sorry. Wait a minute.
MR. MATTHEWS: Ron, for the record, we have -- we have marked Exhibit 2 as attorneys' eyes only, and I would suggest that pursuant to the terms of our protective order, when we get into documents that are attorneys' eyes only or questions that involve specific distributors which we've said we do not want to be disclosed to your clients for the same reasons they don't want to disclose to Australian Gold, that we mark that portion of the depo -- deposition as attorneys' eyes only and I would suggest binding it separately so you can share it with your client.
MR. COLEMAN: Agreed 100 percent.
MR. MATTHEWS: Okay. So let the record show that this --
A. The Planet Beach --
MR. MATTHEWS: -- this -- this portion of the record be designated attorneys' eyes only and the por -- and also go back and ask that the portion of the

record designating the chain salons also be designated attorneys' eyes only where we disclose the identity of those chain salons which I won't repeat again. Agreed?
MR. COLEMAN: Agreed.
MR. MATTHEWS: Okay.
Q. Okay. Can you describe what we've marked as Exhibit 2?
A. This is our distribution contract.
Q. Can I ask you to please turn to page 3?
MR. COLEMAN: For the record, this is the con -- this is the document which has been designated with the Document Control No. AG0005495 continuing on through 5516. So at the top of page 3, are these the clauses in this contract which govern Internet sales? That would be paragraph 1.1(E)(I)(a) and (b).
MR. MATTHEWS: I'm just going to object to the form of the question in that it did -- does not have a time frame or this contract defines a certain period of time.
Q. Well, is this the contract that's in use now, to your knowledge?
A. Yes, this expires this year.

THE COURT REPORTER: I'm sorry. I didn't hear it.
THE WITNESS: Yes, this contract expires in 2006.
Q. Okay. Let's actually take a step back and look at the second page, D, Customers of Distributor. In subparagraph (I), it's really 1, it's Roman I, it says, "Customer means only a person (a) whose primary business activity is operating a tanning salon or hair and beauty care salon."
Does a customer who operates a hair salon have the right to purchase from -- directly from your distributors under this contract, the way you understand it?
A. If they also offer indoor tanning instruction and tanning equipment.
Q. So (b) and), in other words, they have to be one of those things and offer approved tanning -- indoor tanning and instruction on the use of products, in other words, of ETS or Australian Gold products, as an on-premises service and who obtains training and instructions -- and instruction, etc. So in other words, a customer has to

meet all three of those criteria; that's correct?
A. Yes.
Q. Now, what does approved indoor tanning and instruction on use of the products? Who approves -- what does -- what does approved indoor tanning mean? Am I reading that correctly? Who offers approved indoor tanning and instruction? What's approved indoor tanning?
A. It would be -- my interpretation would be the difference between if we went to someplace that had a bed that wasn't plugged in and didn't work, which has happened, and we go to a salon that is selling a service of tanning with a tanning bed that has lamps in it that works and is providing UV light to the customer.
Q. And the instruction -- this -- this customer has to also provide instruction on the use of products; is that correct?
A. Yes, it has to be available.
THE COURT REPORTER: I'm sorry. Yes, it --
THE WITNESS: Yes, it has to be

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A. Yes, the consultant has to be available with the information.
Q. Is the distributor required to --
MR. COLEMAN: Withdrawn.
Q. How does a distributor know, based on how you enforce the terms of this contract, whether or not the -- the employees of a tanning salon are qualified to give instruction in the use of the products?
A. Can you reword that, because qualified is -- we don't say they have to be qualified to do it. It's kind of --
Q. It's kind of what?
A. We tell them who -- we tell them who -- who -- where the peo -- where the lotions can be sold. We provide the tanning training information. We give that information to the salon owners to provide that information to the customers.
Q. Is it --
A. There's not a test.
Q. It's not -- there's no test; is that what you're saying?
A. Prior to them selling it.
Q. Is there a test for them to maintain

their -- when we said -- when you said "them selling it," you mean the salon owners, right, or do you mean the distributors?
A. Before that -- you said the distributors have to be -- to qualify their customers.
Q. Oh, that's what I --
A. There isn't a test that qualifies them.
Q. You're saying they don't have to qualify?
A. Well, they have to qualify them to these specifications, but --
Q. Okay. So let's focus on this word "instruction." And this is with -- with the continuing objection regarding the matter of contract interpretation. But because -- in mind -- but because you have the responsibility to enforce this contract in your job as the president of Australian Gold, and because to a large extent, this has become an issue in this case, I'm going to ask you to -- to -- to really try to get a sense of what Australian Gold's expectations are under this contract about instruction by

what is defined in this contract as a customer. A customer means a salon, correct?
A. A salon offering tanning.
Q. Right. And we've said that the approved indoor tanning, that refers to -- it has to be a bona fide operation, not they bought a bed in 1974 and they use it as a shelf in the back; it has to be the real deal.
A. Correct.
Q. Okay. The question is the "instruction." Is -- I think you have testified that Australian Gold itself offers instruction on the use of the products to tanning salons; is that correct?
A. Yes.
Q. Do they have to take it in order to be qualified as customers? They have -- do they have to take that instruction from Australian Gold?
A. There's different levels of instruction. It could be we provide written materials and it could be over the phone that the distributors are talking to them. It could be that they attend a seminar. So

there's -- instruction is -- there's different levels.
Q. Actually, section -- Sub -- Subsection C does say, doesn't it, that the customer must obtain training and instruction on matters relating to the use of the products from ETS or one of ETS's distributors; that's correct, right?
A. I think so. Like I said, it could be over the phone. It doesn't have to be in person.
Q. If a -- if a consumer were to call up Australian Gold and ask for instruction on use of one of its products, would you refer that person to a salon or would you -- or -- or would Australian Gold provide that information?
A. It depends on the question.
Q. What's an example of -- of how that might depend on the question?
A. If someone called in and -- and I don't know, because this does not usually happen. The consumer --
Q. Well, is there a consumer -- okay. Let -- let me ask a more focused question.

Is there a consumer information phone number for Australian Gold?
A. There's an 800 number on the products.
Q. On the products?
A. I believe. I don't have a label in front of me. I know our Web site is located on the labels.
Q. And where does that phone ring?
A. Into our office.
Q. Here in Indianapolis?
A. Uh-huh.
Q. Is there a phone bank or something where those phones are picked up, or does it go through the marketing department? Do you know literally within the building? Does it go to a switchboard?
A. It goes through the sales department.
MR. COLEMAN: Please mark this as Exhibit 3.
(The Court Reporter marked a document for identification as Exhibit No. 3.)
Q. I ask you to -- to take a look at Exhibit 3. You made some reference to -- to training manuals. Is this the sort of

manual that would be given to a -- an end -- to a -- to a salon customer by ETS or would this go only to distributors or both?
A. This could go to salons or distributors.
Q. Does every salon that sells Australian Gold products get one of these?
A. It's our --
MR. MATTHEWS: I'm going to -- I'm going to object to the form of the question to the extent it calls for speculation.
You may answer.
A. It -- it's our goal that they do, yes.
Q. The -- I -- I'm going to deduce from your answer and from the objection that you don't know if they do; is that correct?
A. Not every salon.
Q. Does every distributor get it?
A. Yes.
Q. Are there -- in the year 2004, would this have been the only training manual? This is -- let me just make it clear that this is the document that is indexed with the Document Control No. AG0004505 and

continues on until 0004568, the AG indicating that it was produced by your attorneys in this litigation. The reason I'm saying that is so that you can take some comfort in knowing that this came from Australian Gold; it wasn't downloaded off the Internet or something.
So on the premise without requiring you to go through each page and swearing under oath you recognize the manual by heart, on the premise this is what it appears to be. I'll now ask the question, is this the training ma -- manual for Australian Gold products for 2004?
A. For Australian Gold products only, yes.
Q. All right. Okay. Was there another training manual for Australian Gold products in the year 2004 besides this one?
A. There were training materials.
Q. There would be other training materials?
A. (Nodding.)
Q. What would that consist of?
A. We have point of purchase charts that

come -- walk them through the different ingredients, different levels of bronzers, different levels of tingle that could affect their skin type and create a negative experience for them. There's --
Q. Can I stop you there?
A. Uh-huh.
Q. What's a negative experience?
A. Not a positive. I mean, they could --
Q. Using this deposition as a baseline for a negative and positive experiences is kind of being where the two meets.
MR. COLEMAN: Now, I'll withdraw that.
Q. When you say "negative experience," what kind of experience are you talking about? Is it -- is it a danger to their health?
A. Not a danger to their health. They could -- not prepared, they could have a skin reaction.
Q. How long does the reaction last?
A. Depends on their skin type.
Q. What's the range of possibilities?

A. An hour to two days, you get people --
Q. And -- and what's the nature of that reaction?
A. Tingling sensation, welts on their skin, very uncomfortable.
Q. Is -- there's been some testimony in this case about tingle products, so maybe we can take a little detour and talk a little bit about tingle products since you -- you brought up the topic.
Can you exp -- can you please explain what a tingle tanning product is? I'm sorry. I don't mean to ask you the specific names of what a product -- as a general rule, what is a -- what are the -- what is a tingling -- what is a tingle product?
A. It's a product that generally contains Benzyl Nicotinate or Methyl Nicotinate that --
THE COURT REPORTER: I'm sorry. The second one?
THE WITNESS: Methyl Nicotinate.
Q. And what does it -- what does this -- what do these che -- chemicals do?

A. It increases circulation. Gen -- generally --
Q. That's a good -- that's a good thing, isn't it, increasing circulation?
A. Depends on the level.
Q. So what are the issues? Is -- is there a difference between -- when -- when you're talking about skin types, does -- does the existence of a -- let's form -- question. What -- what is it based or a tanning base? Is that the term that I'm looking for?
A. Base tan.
Q. Okay. What is a base tan?
A. It's generally after someone has built up three to five sessions of tanning and their body has gotten used to the UV light and they're seeing a color change.
Q. Does the existence or the presence of a base tan have an effect on whether there will be a reaction to a tingle product?
A. It is one -- one part of it.
Q. What are the other parts?
A. Their actual skin type.
Q. So what does skin type mean?

A. Aller -- the -- whether their skin -- they have allergic reactions or different things.
Q. Okay. So we've put this Exhibit 3 in front of you. Is -- do you review the training manual before it is distributed?
A. Yes.
MR. MATTHEWS: Is that with respect to her or Australian Gold, Ron?
Q. You personally.
A. (Nodding.)
Q. You do?
A. (Nodding.)
Q. I believe you nodded "yes."
A. Yes.
Q. Because you're -- you're undoubtedly more familiar with the training manual than I am, maybe you could direct me -- it's a yes or no question. If you can't, then you can't. Can you direct me to the section of the training manual that deals with safety issues, if there is one? Is there a section in the training manual that deals exclusively with safety issues?
A. There's not a safety section.

Q. Where would safety information be found in the training manual?
A. What do you mean by "safety"?
Q. Is there a safety issue implicated in the sale of tanning lotion?
A. To the extent that someone could get hurt -- or not hurt, but could get a reaction, yes. We discuss it in the tingle when we go over the tingle areas.
Q. All right. This is one of those one- or two-hour reactions you're talking about?
A. It could be a day -- two days.
Q. Have you heard about --
A. Two days.
Q. How did -- how did you learn -- have you heard about people having day long reactions to -- to --
A. Yes.
Q. -- to Australian Gold tingle products?
A. Yes.
Q. Have consumers complained about that?
A. I believe you have some information on consumer complaints.
Q. Are you personally aware of -- I

guess that's a yes. You are aware of consumer complaints about tingle products?
A. Yes.
Q. Were these products purchased from -- to your knowledge, were they purchased from unauthorized distributors?
A. I don't know without looking at them.
Q. Is it possible they were to -- that -- can a person have a bad reaction --
MR. COLEMAN: Withdrawn.
Q. Okay. You -- you actually just referred to a section here that would be -- be somewhat responsive. What page is that?
A. Six.
MR. MATTHEWS: Leslie, why don't you refer to the Australian Gold number at the bottom?
A. 4510.
Q. Okay.
THE COURT REPORTER: I'm sorry. Say that again.
THE WITNESS: 4510.
Q. And can you tell me what it is that you want -- you're looking at?
A. The seventh line up is the area where

it says tingle intensity. It's got a little flame. It says contains tingle and the product line reflects to each bottle, so when a customer con -- consultation is going on, if someone's new, they would focus on the products without any type of sun.
If they've been tanning for a while and feel that they have reached their tanning plateau and want something more, want that immediate reaction, want to see some color, they would go to more of a quarter or half type sun.
Someone that tans regularly that is very dark but still wants to see more color immediately when they get out of the bed would go to more of a three quarter or a full sun of tingle there so that they're not surprised by the reaction.
Q. Has Australian Gold ever been sued by anyone because of a reaction to a tingle product?
A. We have been involved in a case.
Q. What was that case?
A. The name?
Q. Let's start there.

A. Her first -- her last name was Soans. I don't know what her first name is.
THE COURT REPORTER: I'm sorry.
THE WITNESS: Soans.
Q. S-O-N-E-S?
A. S-O-A-N-S.
Q. And what was Australian Gold's involvement in that case?
A. We were the def -- a defendant. She also named a salon.
Q. And she was suing because of an adverse reaction that she had to -- to a tingle product?
A. Yes.
Q. And she had bought them at a salon?
A. Yes.
Q. Was that --
A. Which is why we need more training.
Q. You need more training with salons?
A. Continued training.
Q. Did the owner of that salon -- or the -- did the -- did that salon have a training issue that distinguished it from other salons in the -- in the Australian Gold network that you're aware of?

A. I don't know that that was asked.
Q. How was that case resolved?
A. We settled.
Q. Did you make a payment to the plaintiff?
A. Australian Gold personally?
Q. Australian Gold as a company.
A. Our insurance company settled it.
Q. Oh.
A. So we didn't pay it.
Q. Was that -- you -- do you know the jurisdiction where that litigation took place, what state that was in?
A. California.
Q. Was that in state court?
A. I don't know.
Q. Are you aware of any other litigation involving tingle products that involved --
A. Not that I believe got to litigation, no.
Q. Okay. Does the Food and Drug Administration regulate tingle products as an over-the-counter drug?
A. Not that I'm aware of.
Q. Are you aware of any rulemaking

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activity or investigations by the FDA on the -- regarding the topic of tingle products?
A. Not that I'm aware of.
Q. Do you know if there's -- going back to Exhibit 3. Do you know if there's -- is there any other text in Exhibit 3 that addresses this issue of --
A. Of tingle?
Q. -- of the tingle?
MR. MATTHEWS: And I'll just instruct the witness to take her time and look through --
MR. COLEMAN: By all means.
MR. MATTHEWS: -- the document.
MR. COLEMAN: By the way, it's been an hour and a quarter. If you want to take a break, you can. We can -- I don't need one.
THE WITNESS: Okay. We can.
MR. COLEMAN: Let's do it.
(A short break was taken at this time.)
MR. COLEMAN: We can go back on.
Q. Okay. Have you had a chance to look at Exhibit 3 and -- and determine whether

there's any more tingle related information in terms of training?
A. I haven't reviewed the whole thing. Some -- some of the information, as we explained, StimuTan is an after-tan glow. They'll feel and see their tan working. I believe there's more in here.
Q. Did you say StimuTan?
A. Yes.
Q. Is that you what -- is that --
A. What we call our trade secret formulation blend. For example, in bronzing fire glaze which would probably have a --
THE COURT REPORTER: I'm sorry.
THE COURT REPORTER: Bronzing fire glaze.
Q. And that would be on what page?
A. 4521. It would have a full sun in the tingle line. It says, "Added tingle for those who are currently using tanning products for darker tanning results."
Q. On page 4521, there's a box on the kind of upper right that says, "Selling tip."
A. Uh-huh.
Q. It says, "For advanced tingle tanners

who are already using a tingle product." Is a selling tip the same thing as a safety warning?
A. A safety warning per se would be required by the FDA, so --
Q. Oh, is that a term of art, "safety warning"? Okay. I understood.
A. Warning statement, yeah.
Q. Okay.
A. So we wouldn't put --
Q. You wouldn't put that on any of the products?
A. Unless it required it.
Q. Does the information about the tingling sensation that you have referred to in your testimony, is -- is that something that someone could read on the label of the product?
A. Generally, there are tingle statements on the products.
Q. Were there any changes to the product labels after you settled that Soans case?
A. No, not that I'm aware of.
Q. Would there be a -- somewhere you -- is it -- is it possible that such a change

could have taken place and that you would not be aware of it?
A. We did not make any --
Q. Oh.
A. -- back changes. We've always put a caution statement on there for them to test a small area of their skin. On 4532, "Blazin'" for advanced tingle tanners who already use the tingle products.
THE COURT REPORTER: I'm sorry. Could you repeat that? 4532 --
THE WITNESS: Blazin'.
Q. That's a product name B-L-A-Z-I-N apostrophe?
A. Yes. And, again, it says, "It's for advanced tingle tanners who already use tingle products."
Q. That's in the selling tip box?
A. And in the feature and benefits.
Q. I'm sorry. I -- I don't see where it is found --
A. (Indicating.)
Q. Oh, "StimuTan tingle and reddening" -- so where it says in the upper right feature, "StimuTan tingle and reddening

factor and then the benefit, an immediate after-tan glow that allows tanner to feel and see their tan working immediately."
A. Correct.
Q. There isn't any cautionary language, right, it's just features and benefits?
A. Other than the other statement where it's -- "for advanced tingle tanners."
Q. In the selling tip box, correct?
A. Yes. There are several. Do I have to go over each one?
Q. No, not at all. I -- I -- that was representative and I appreciate that. As they say, the document speaks for itself. We can move on.
A. But there again, this is just a manual. When they sit through training, the verbal of how to test it -- test it on a small area -- tingle has over the years become more of a common ingredient. I mean, in 2000 it wasn't so common. Now it's a more common ingredient. We train them on how to use the tingle. We've worked to train them.
MR. COLEMAN: Can you please mark

Exhibit 4?
(The Court Reporter marked a document for identification as Exhibit No. 4.)
Q. Do you recognize Exhibit 4?
A. Yes.
Q. Can you please explain what it is?
A. This is a program brochure we send out. We give --
Q. Whom do you send it to?
A. We provide it to the distributors. We provide it to training. We provide it --
Q. I'm sorry. To train what?
A. In training.
Q. And in -- in training -- when you train distributors?
A. And salons.
Q. Do you know how many salons were trained by Australian Gold -- Australian Gold directly in 2005?
A. I don't know the number off the top of my head. Tens of thousands.
THE COURT REPORTER: I'm sorry.
Q. Did you say tens of thousands? And when you say "trained," that encompasses what?

A. A training session on our tanning products, ingredients, sales techniques.
Q. So this would be given out during one of those training sessions?
A. It could have been, yes.
Q. Not necessarily every one?
A. Or other places.
Q. And what exactly is Exhibit -- I mean, I -- I mean, what -- what -- what -- what -- what's the nature of this program?
A. It provides incentives to salons to promote our products in their salon.
Q. Are there any incentives provided to salons to get safety training specifically?
A. From a regulation standpoint?
Q. No, from an internal ETS or Australian Gold standpoint.
A. As far -- like a safety training class?
Q. Yeah.
A. We don't offer a safety training class.
Q. Is this a co-op advertising program?
A. Yes, and SPIFF.
Q. And SPIFF.

A. I believe SPIFFs are in here.
Q. And a SPIFF is?
A. Certain products -- if they purchase and sell certain products in their salons during certain points of the year, they get, maybe, a quarter bottle or something that they can offer in return to their employees.
Q. Is that a way to kind of try to smooth out the sales cycles for those products?
A. Yes. Marketing programs.
Q. Let's go back to Exhibit 2, please. On top --
MR. MATTHEWS: Ron, can I stop you before you ask your questions? We never designated when we were off the confidential portions. I don't know how we want to do this. I want --
MR. COLEMAN: She just asked me that when we were off the record.
MR. MATTHEWS: Okay. I'm sorry.
MR. COLEMAN: That's okay. I mean, obviously -- but my understanding was that during the -- let's go off the record for a second.

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(At this time a discussion was held off the record.)

Q. Back to page 3.

MR. COLEMAN: I guess I should say for the record that we've agreed to -- to -- to work cooperatively on the issue of -- of the designation of portions of the -- of the transcripts for attorneys eyes' pursuant to the order that's in place.

We -- we agree that Exhibit 2 is being used really as an exemplar. It happens that your -- your client was able to testify that this was an actual distribution agreement that is actually in use now as opposed to the blank, which was attached as part of the pleadings. The only aspect of this which would be kept confidential and which needs to be kept confidential is the name as far as I understand.

MR. MATTHEWS: Which is on -- which is on page AG 0005495.

MR. COLEMAN: Which is the first page.

MR. MATTHEWS: The first page and then the signature page and there might be a

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notice page in here as well.

MR. COLEMAN: Okay.

MR. MATTHEWS: But other than that, we're in agreement. All right. Thanks.

Q. Now let's take a look on -- on page 3, which is 5497. It does say in paragraph (b) under small Roman I, "Distributor assumes the duty to implement and enforce this Internet Policy with regard to each customer." The Internet policy is the one that's explained in Exhibit A -- in -- in paragraph A. "Distributor shall not directly or indirectly distribute or sell Products to any person or entity which markets, distributes or sells Products on the Internet as described in the Internet Policy."

Why doesn't -- is it the case -- it's just a foundation question -- forgive me. Does Australian Gold have an objection to the sale of its products directly over the Internet?

A. Yes.

Q. What is the reason for that objection?

A. We chose our marketing channel to be

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a professional tanning salons. We chose that we would distribute our products through a distributor channel in cooperation with the distributor to salons who would sell the products in their salon to people using the products in the tanning salon, and -- and that's the marketing channel we chose in 1997.

We changed our structure. Prior to that, we weren't as strict in structure, but by doing so we provided integrity to our salons. We pro -- improved our reputation and we work hard to solidify that.

Q. What do you mean by "integrity"?

A. Our integrity to the salons? That -- that they know that they're selling a product that is designed for tanning salons, sold through the distributor channel and sold to them for them to provide to their customers. If we don't support that, then people can go buy anything.

Q. It says in (b), "In the" -- "in this regard, Distributor shall authorize a Customer to use the Internet relating to the Products, only pursuant to a written

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agreement, previously approved by ETS, which conforms to the provisions of this Section 1.1(E) and only if," and then there are a number of conditions.

Are you aware of any cases in which Australian Gold or ETS have entered into a written agreement to permit a customer as described under this contract, which would be a salon, correct, customers are salons --

A. (Nodding.)

Q. -- to sell on the Internet?

MR. MATTHEWS: Objection. That misstates what that provision reads.

Subject to that objection, you can answer the question.

MR. COLEMAN: Well, what's the mistake? We should definitely -- we're in -- we're in a search for truth here, so if I say something wrong, I want to know.

MR. MATTHEWS: Can I clarify? I don't want to testify. But let me --

MR. COLEMAN: Yeah, that's fine.

MR. MATTHEWS: That provision allows a tanning salon to market the products, display the products on the Internet. It

does not provide for sales on the Internet.
Q. With that clarification, has -- has Australian Gold or ET -- or has ETS entered into a -- an agreement described by that paragraph to permit a tanning salon to promote or market Australian Gold products on the Internet?
THE WITNESS: Can you read the question back? I'm sorry.
(The Court Reporter read back the last preceding question, as set forth herein above.)
A. Yes. We have salons that show our products and descriptions without pricing, discounts, anything regarding to the sale of the product.
Q. When you say -- you mean without pricing and without discounts or without pricing --
A. Without any --
Q. Any price information?
A. Yes.
Q. How does Australian Gold satisfy itself -- the -- the -- I'm sorry. These are sales by -- by actual tanning salons,

correct? These -- these are -- these are Web sites operated by tanning salons, correct, that you're referring to?
A. Yes.
Q. Not by distributors?
A. Distributors may show and describe our products.
Q. Distributors are also permitted --
A. Within the agreement.
Q. Within the agreement?
A. To use our trademarks, yes.
Q. Does Australian Gold monitor the content of these Web sites?
A. Absolutely.
Q. Does the distributorship -- does the distribution system utilized by Australian Gold enable Australian Gold to keep prices higher than they would be if it permitted Internet sales?
MR. MATTHEWS: We would object to the form of the question. It's vague.
Q. Do you understand the question?
A. Keep what prices?
Q. Prices for -- prices paid by end users for Australian Gold products.

MR. MATTHEWS: Also object to the question that it's --
A. I don't -- I don't know.
MR. MATTHEWS: Wait a minute. Let me object. It's irrelevant. It's not part of this case. I don't see how it's likely to lead to the discovery of admissible evidence. You -- you can answer the question -- question the best you can.
A. I -- I don't know.
MR. COLEMAN: Would you please mark this as Exhibit 5? Are we at 5?
(The Court Reporter marked a document for identification as Exhibit No. 5.)
Q. Do you recognize Exhibit 5?
A. Yes.
Q. What is it?
A. A letter from a customer to one of our customer service people.
Q. Now, a customer, here again means a salon?
A. A salon.
Q. I'm sorry for being redundant. But anyone looking casually at a page of this might think a customer wasn't a person who

gets a tan.
Is it true that in this e-mail -- how did this -- how did this e-mail get to you?
A. To Australian Gold?
Q. Yes.
A. Via the e-mail -- via the e-mail system.
Q. Was it forwarded to you to -- according to your recollection, please? Was this -- and who is -- who is Sallie Webster?
A. She's in our customer service department. She handles our Internet monitoring.
Q. Okay. And who is Rich James?
A. An associate of a tanning salon. I don't know if he's the owner.
Q. Would the tanning salon have -- do you know whether there was a distributor in this chain of discussion in this e-mail or any of the people involved in this e-mail? Take your time looking at it.
(Witness peruses document.)
A. I don't see a distributor name.
Q. Okay. So this appears to be a complaint from a tanning salon directly to

66 W. Mt. Pleasant Avenue
Livingston, NJ 07039
(973) 992-7650 Fax (973) 992-0666
1-888-444-DEPS
E-mail: reporters@rrdrcsr.com

Australian Gold.
The e-mail appears to say that this -- there seems to be on the topic of a product called Simply Divine; is that an Australian Gold product?
A. Swedish Beauty, yes.
Q. Swedish Beauty. And evidently, according to this e-mail, is it not the case that this is in reference to sales of what purported to be bottles of Simply Divine on eBay; is that correct?
A. Yes.
Q. Now, again, I'm only -- we're only testifying about what's in this e-mail. You don't really know what was happening, I understand that. According to this e-mail, it appears that Simply Divine was being sold on eBay for as little as $18 plus $5.95 for shipping and the cust -- and the customer, the tanning salon complains, "It is near impossible for me to justify a $66 retail mark."
Do you know where that $66 retail mark comes from? Why does -- is that a number that -- that Australian Gold

recommends as a -- as a -- as a manufacturer recommended retail price?
A. I would have to look at -- could be, yes.
Q. Does -- does Australian Gold have recommended prices for all its products?
A. Suggested retail, yes.
Q. Suggested retail price. And how do retailers learn what that price is?
A. The distributors publish it in their catalog.
Q. In their individual dis -- distributor's catalog?
A. (Nodding.)
Q. Do you know why this Rich James, who wrote this e-mail, didn't complain to his distributor?
MR. MATTHEWS: Objection to the form of the question. You may answer.
A. No, I don't.
Q. Do you know who his distributor -- who his normal distributor is?
A. No, I don't.
Q. Going down to the first e-mail in this chain, which is the one at the -- on

the bottom of page 13016.
Just for the record, we're talking about the document marked AG0013015 through 17. The first e-mail dated June 10th from Rich James to Sallie Webster is about the def -- the plaintiff in this case, isn't it?
A. I believe that's the SuppleNet, right.
Q. Sallie Webster writes in this e-mail, on the first page on the Ju -- also on June 10th at 12:55 p.m., second paragraph, if you just please turn over, "Please let your customers know that they are buying from this Web site" -- "that are buying from this Web site that there is absolutely no guarantee that they are getting authentic product. If there is any problem with the lotion, they buy over the Internet, they will be out whatever they paid for it. And we have had many reports with counterfeit lotions being sold in this venue."
Do you know what is meant by "this venue"?
A. I would assume. I don't know what she meant. I would assume the Internet.

MR. MATTHEWS: You're not here to assume.
A. Oh.
Q. Were you copied on these e-mails at any point?
A. Personally?
Q. Yes.
A. Not that I'm aware of, no.
Q. And -- and what, again, did you say Sallie Webster's position -- title was?
A. She's in our customer service department. I don't know what her title is.
Q. Does this comment from Rich James on the -- on the top of this exhibit, first page, make you reconsider your answer that you don't know whether Internet sales tend to lower the retail price of Australian Gold products?
MR. MATTHEWS: I'm going to lodge an objection to the form of the question. One, it calls for speculation. Two, I don't think there's any qualification she's an economist or can make prognosis about economic theories of supply and demand.
If you can answer it, you can.

Q. What's that answer?
A. I don't -- I don't know what the --
Q. Did you study economics as part of your studies for a degree in business administration?
A. Minimally.
Q. Minimally. But economics is a big part of your job, isn't it?
A. Supply and demand. I mean --
Q. Have you -- is it your testimony that you -- it would require you to speculate in order to answer the question of whether or not Internet sales decrease the price of Australian Gold paid by consumers?
MR. MATTHEWS: I'm going to object to the form of the question. You have not given her enough foundational facts even to answer that question. It's purely hypothetical. That's another objection among the many of ours --
MR. COLEMAN: Hypothetical is not an objection. You can object to the form, though.
MR. MATTHEWS: It's -- yours -- your question assumes that Internet sales are

going to drive --
MR. COLEMAN: No, it's not. I'm asking whether or not she's aware -- whether or not she has an opinion on that based on her experience as a person with a business degree and CEO of this company. Does Ms. Hartlieb have an opinion as to whether the effect on pricing will be to -- whether -- whether there would be any effect on pricing as a result of the ban on Internet sales.
Q. Do you have an opinion?
A. I can't -- I can't answer for all the salons in the United States, no.
Q. Well --
A. This particular salon.
Q. This particular salon finds it impossible, he says, to justify a $66 retail mark for a product that can be purchased on eBay for $18 plus shipping. Do you think other salons can justify a $66 retail mark?
MR. MATTHEWS: Objection. That misstates what -- what this exhibit says. It says near impossible.
MR. COLEMAN: Right.
MR. MATTHEWS: You can answer the

question.
MR. COLEMAN: Duly noted.
Q. Do you think there are salons that could justify a $66 retail mark when the product can be purchased for $18 on eBay?
A. I do know salons have sold it for $66.
Q. Has Australian Gold ever sued eBay?
A. EBay, the corporation eBay?
Q. Yes.
A. I don't believe we sued them.
MR. COLEMAN: Mr. Matthews, I would have to object to your whispering to your client between questions.
MR. MATTHEWS: There's no question pending.
MR. COLEMAN: Between questions.
MR. MATTHEWS: Well, let the record reflect you're moving to another exhibit, presumably going to another topic. So your objection is duly noted.
MR. COLEMAN: Okay. Please mark this as Exhibit 7.
MR. MATTHEWS: 6.
MR. COLEMAN: 6.

(The Court Reporter marked a document for identification as Exhibit No. 6.)
Q. Have you ever seen Exhibit 6 before?
A. Yes.
Q. And this Exhibit 6 is the letter that was sent by Mr. Matthews on January 15, 2004, to my client demanding that they cease selling Australian Gold products on the Internet; is that correct?
A. It's a request to cease and desist selling it.
Q. Req -- sorry. Request that they cease and desist selling it?
A. Yes.
Q. Would you qua -- would you qualify -- would you -- your description of Exhibit 6, is that it's a request?
A. I'm saying it doesn't say demand. It's telling them to stop, but...
Q. I'd like you to look at the bottom paragraph of the carryover paragraph. There is no carryover pa -- paragraph. "If you do not provide to us the information we requested in the preceding paragraph within seven days from the date of this letter, ETS

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is prepared to take action against you."
Next paragraph. "ETS considers this matter to be serious. Please do not take this letter lightly as your failure to comply will make litigation against you imminent."
Do you still -- do you still believe that this is a request?
A. If you want to use the word "demand." I'm just -- it doesn't say demand.
Q. Who is William Pipp?
A. He was the vice president of sales for Australian Gold, he's current -- for ETS. He's currently the president of ETS on the equipment side -- or the CEO. I'm sorry. CEO of ETS.
Q. I'm -- I'm referring now, of course, to the -- the recipients of these cc's on here. Who is Tracy Ring?
A. She is our national sales manager.
Q. And who is Susan Higgins?
A. The paralegal for Ice Miller.
Q. Were you copied on this letter?
A. No.
Q. At the time this was written, Mr. Pipp had a different post than his present

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post with ETS; is that what you testified?
A. Yes.
Q. He -- at that time he was --
A. Vice president of sales.
Q. Did he have responsibility for the enforcement issues in connection with this sort of -- this sort of request letter?
A. Yes.
Q. Do you know whether at the time this letter was written -- well, let me first ask you. Would this letter have been reviewed by Mr. Pipp or someone else perhaps who is not on that list prior to being sent?
A. I don't know. I wasn't involved in the process.
Q. As a matter of -- of corporate policy, though, does Ice Miller have the authority to send these sort of cease and desist letters out without --
A. No.
Q. That's a no? So is it fair to say, then, that someone -- someone at ETS would have had -- would have looked at -- would have looked this over before it went out?
A. Yes.

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Q. Paragraph 2 says in the last -- last sentence, "Our agreements" -- well, I -- I guess that's too much out of context. Let me read the previous sentence. "ETS sells the Products directly to tanning salons for resale to consumers in connection with their delivery of on-site tanning services and distributors for resale of such tanning salons. Our agreements expressly prohibit the sale of the Products through Web site remarketers such as yourself."
Do you have any reason to believe that my client -- I'm going to use the term "my client" in the singular here. It's understood that I'm referring to all my clients in this litigation. Do you have any reason to believe that, prior to receiving this letter, that my client was aware of what your agreements with distributors provided?
THE WITNESS: Can you read that back?
(The Court Reporter read back the last preceding question, as set forth herein above.)
A. I don't know if any other

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communication occurred with your client before this, but.
Q. In other words, from dire -- whe -- whether it occurred from Ice Miller or directly from Australian Gold?
A. (Nodding.)
Q. That's a "yes"?
A. Right, I don't -- don't think so.
THE COURT REPORTER: --
THE WITNESS: I don't think so.
Q. I'm sorry. I -- I -- to be fair, I wasn't really asking whether or not it had done, because that would be like a hide the ball situation. I -- you don't know what I've got here. I'm going to represent to you -- I think -- I think that Mr. Matthews will agree.
This appears to be the first letter that went from you or your -- your counsel to my -- to my clients. So if that -- given that that appears to be the case, do you have any other reason to believe that -- that my client would have known what the distribution agreement between the distributors and Australian Gold requires?

A. Not prior to that point.
MR. COLEMAN: Please mark this as Exhibit 7.
(The Court Reporter marked a document for identification as Exhibit No. 7.)
Q. Have you seen Exhibit 7 before?
A. Yes.
Q. At the bottom of Exhibit 7, which just for the record I'll clarify, is a letter from my office to Ice Miller in response to the previous exhibit, the carryover paragraph at the bottom of page 1 says in the second sentence, "Specifically, please advise us of support for the proposition the one who purchases merchandise at one or more retail locations may be subject to liability for tortious interference with contract for selling that merchandise to others, based on a contract between a retailer and a third party."
Now, I'm not going to ask you to give me a legal authority for that. Would be particularly a unfair question. But what I am going to ask you is whether it's your understanding that a retailer -- that a

person who purchases Australian Gold merchandise from a retailer is bound in any way by the distribution agreement.
MR. MATTHEWS: To the extent, it calls for a legal conclusion, I object. You can answer as to your understanding.
MR. COLEMAN: Please reread the question.
(The Court Reporter read back the last preceding question, as set forth herein above.)
A. No.
Q. No, they are not bound?
A. Our agreement is with the distributor.
Q. Your what's with the distributor?
A. You asked if they -- they're bound by our agreement. Our agreement is with our distributor to promote to the salons.
Q. Was there any -- any -- was there any point during the period between the first cease and desist letter, which was Exhibit 6, and the filing of this litigation where there were discussions among -- I'm not asking for anything that involved attorney-client

privilege -- where there were discussions among the executives, including yourself, at Australian Gold about settling or -- or finding someway to accommodate the sales by my clients of Australian Gold products on the Internet?
MR. MATTHEWS: Need to ask you to rephrase it. I'm not sure I understood the -- the question, Ron.
Q. Between the time that the -- actually, let me ask a better question. Was there any period during which Australian Gold contemplated the possibility of finding a creative economic solution that would permit my client to continue in business selling Australian Gold merchandise?
MR. MATTHEWS: On the Internet?
MR. COLEMAN: Yes.
A. Not that I'm personally aware of.
MR. COLEMAN: Will you please mark this as Exhibit 8?
(The Court Reporter marked a document for identification as Exhibit No. 8.)
Q. Please take an opportunity to look at it.

(Witness reviewing document.)
Q. Does it that -- does Exhibit 8 -- did anybody refresh your recollection as to whether there was any consideration of finding a way to avoid litigation with Mr. -- with -- with our clients?
Well, let me ask you a question. You're thinking hard. Maybe we'll come back to that question.
Who is Dan -- is it Shaffer or Shaffer?
A. Shaffer.
Q. Who is Dan Shaffer?
A. He was -- he put our Internet sites up. He -- I don't know what --
Q. Was he --
A. -- his title was.
Q. Was he your Web master?
A. I don't know if he was master, but he did our Webs.
Q. Was -- was he in-house?
A. Yes.
Q. And who is Wendy Schwartz?
A. She was our equipment marketing

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person.
Q. Who is -- who is Frank Vukovits, V-U-K-O-V-I-T-S?
A. He was director of IT for ETS.
Q. Mark Baker?
A. Equipment sales manager.
Q. And Tra -- I think you already testified about Tracy Ring.
A. Yes.
Q. Is Dan Shaffer still with the company?
A. No.
Q. I think I may not have the page that follow this e-mail so it might be a shoot in the dark here.
Do you have any idea on the top link of the e-mail May 4th, 3:33 p.m. when Dan Shaffer wrote, "I will address these concerns with him," do you know who "him" could have been?
A. No.
Q. Now, you were copied on this e-mail in -- as one of the original. Not -- not the two top ones, but the one from Dan Shaffer to Wendy Schwartz and you. You were

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not copied; you were actually a recipient of the original 9:59 a.m. e-mail. The e-mail says, "I couldn't find" -- I'm sorry.
MR. COLEMAN: Withdrawn.
Okay, no further questions on this.
Q. Why is the name of the distributors of Australian Gold confidential?
A. Do you mean the attorney-client privilege -- or what?
Q. No, I'm sorry. I think that might not have come out clearly. Is it possible for a member of the general public to find out the name of an Australian Gold distributor?
A. Yes.
Q. How would they go about doing that?
A. There are several -- I mean, they would go -- they would have to go to a source that publishes distributors in the tanning industry and find out if they're authorized by Australian Gold. We don't supply a list.
Q. If someone called Australian Gold and said I'd like to get into this business as a tanning salon. Who is my distributor? I've

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got a -- I've got a tanning salon in Long Island, New York, you wouldn't refer them to a distributor?
A. We would -- if they're thinking about getting in the business, we would refer them to ETS to purchase equipment and then go from there.
Q. Why?
A. Because that's our sister company. We want them to have our equipment.
Q. In other words, they either would already be an ETS customer, in which case they'd have no problem getting -- or you want to see them moving to the ETS equipment before you would sell them or before you would or you would -- rather, that will -- that would just be your business model would be to refer them to ETS?
A. Recommend them.
Q. It's not the case that only purchasers of ETS beds can purchase Australian Gold products; that's correct, isn't it?
A. Right.
MR. COLEMAN: Exhibit 9.

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(The Court Reporter marked a document for identification as Exhibit No. 9.)
Q. Have you seen Exhibit 9 before?
A. Yes.
Q. If you could just turn over to page 2. Who is Steven Humke, H-U-M-K-E?
A. He's a partner with Ice Miller.
Q. Michael Wukmer, W-U-K-M-E-R?
A. He's with Ice Miller.
MR. MATTHEWS: He also has an appearance in this lawsuit.
THE WITNESS: What?
MR. COLEMAN: He's -- he's on this file somewhere.
MR. MATTHEWS: Counsel of record.
Q. Okay. The last paragraph above the Ice Miller signature says, "If your client wants to avoid litigation, it must come forward and make a full and complete disclosure as to where it is purchasing the Australian Gold and Swedish Beauty tanning lotions as well as comply with the demands previously made"; is that correct?
A. That's what it states.
Q. Is it correct that's what -- that's